

**DRAFT FOR COMMENT January 23, 2020**  
**Email Comments by February 21, 2020**

**Montgomery County Multifamily Affordable Housing Development Funding Guidelines**

**Questions or comments can be sent to**  
**DHCA.housing@montgomerycountymd.gov**

- A. **Amount of Funding Available:** Up to \$27.65 million from the Fiscal Year 2021 Housing Initiative Fund will be available on July 1, 2020 for the production and preservation of affordable housing. The level of funding for this program is subject to appropriation and will vary each fiscal year.
- B. **DHCA Background:** Since 1989, the Montgomery County Department of Housing and Community Affairs (DHCA) has provided flexible financing, as loans, to for-profit and nonprofit affordable housing developers to acquire, construct and rehabilitate multifamily developments from the Housing Initiative Fund (HIF) and other resources established under Section 25B-9 of the Montgomery County Code and its corresponding regulations.

C. **Application Process:**

1. Experienced rental housing developers with multifamily rental housing projects that meet one or more of the County and DHCA's preferred criteria to increase or preserve affordable rental housing can apply to the HIF Program.
2. Applicants proposing to use HIF Program funding must use the HIF application which can be found on the DHCA website at [www.montgomerycountymd.gov/dhca-multifamily](http://www.montgomerycountymd.gov/dhca-multifamily). An original application and one electronic version, will need to be submitted to:  
  
DHCA – Multifamily Housing Section  
1401 Rockville Pike, 4<sup>th</sup> Floor  
Rockville, MD 20852
3. DHCA encourages all applicants to discuss their project proposals with DHCA staff for eligibility and feasibility prior to submission of a request. The HIF Program provides opportunity driven funds, and applications will be accepted on an on-going, continuous basis.
4. When an application is received, DHCA staff will send a receipt e-mail to the applicant.
5. Applications requesting Department resources will be reviewed by a Selection Advisory Committee (SAC) appointed by the DHCA Director.
6. The SAC will review the applications and make a recommendation to the DHCA Director on whether a project should be considered for funding. The Director has the sole discretion to determine if an application meets the criteria for being approved for

funding. All applicants will receive a notification after the Director has made a decision.

**D. Montgomery County Threshold Criteria:** Projects should endeavor to meet the threshold criteria noted below and must be determined to be financially feasible in order to be considered for funding:

1. Submission of a signed, completed HIF Program Application (which can be found on the following website: [www.montgomerycountymd.gov/dhca-multifamily](http://www.montgomerycountymd.gov/dhca-multifamily)). For projects requesting more than \$500,000 from the HIF Program, DHCA requires the use of the Maryland Department of Housing and Community Development 202 Application. For projects requesting less than \$500,000 and/or with total development costs of less than \$500,000, the DHCA Small Project Application can be used, which is also found on the DHCA website at [www.montgomerycountymd.gov/dhca-multifamily](http://www.montgomerycountymd.gov/dhca-multifamily).
2. Zoning and Development Approvals: Sites must be properly zoned for the intended use. If a zoning change or other development approval is required, applicant must provide:
  - a. documentation of the present status of the proposed change and the planning and zoning process;
  - b. contact information for the planning official familiar with the project and responsible for the approval process; and
  - c. a detailed schedule with projected dates for obtaining the required approvals corresponding to the project schedule in the Application Package.
3. No debarment or outstanding taxes: Any person or entity suspended or debarred from participating in County, State, or Federal procurement is not eligible to receive funding. In addition, any person or entity with an outstanding County tax bill that is not addressed by a formal repayment plan with the County is not eligible to receive funding.
4. No outstanding DHCA obligations: Persons or entities directly involved with any project, or entities having unpaid fees, loan arrearages, or other failed obligations due to DHCA on other projects, are not eligible to receive funding.
5. Acceptable Evidence of Site Control, clearly identifying all parcels in the development, such as:
  - a. Deed to property demonstrating fee simple ownership,
  - b. Long term lease or ground lease with a lease term that is at least six months longer than the proposed term of the HIF Loan, or
  - c. Purchase Contract with a closing date this is not more than 12 months beyond the date of the HIF application.

**E. Preferred Criteria:** DHCA encourages innovative approaches to projects that meet one or more of the following Preference Criteria:

1. Projects that include units serving households earning 50% or less of the Area Median Income. (AMI).
2. Additional preference for projects that include units dedicated to households earning less than 30% AMI including units dedicated to serving formerly homeless households.
3. Projects that preserve at-risk currently affordable housing.
4. Projects constructing new units or expanding the number of units under affordability restrictions.
5. Projects providing family size units of three or more-bedroom units.
6. Mixed Income Housing.
7. Projects should be consistent with the County Executive's seven priorities in meeting the Preferred Criteria:
  - Making youth and families thrive,
  - Growing the economy,
  - Creating a greener County,
  - Easier commutes,
  - Creating a more affordable, welcoming County,
  - Safe neighborhoods, and,
  - Reorganizing for a more effective, sustainable government.

**F. General Funding Guidelines:**

1. Units assisted with County funds must serve households at or below 70% of the area median income.
2. Units financed with HIF Program funding must remain affordable for the greater of 30 years or the affordability restriction periods required under the MPDU or LIHTC programs. In projects which may or may not include LIHTC or any other federal financing with affordability restrictions, the Director may, at his sole discretion require affordability requirements for HIF Program Funds to be recorded in covenants senior to all financing.
3. HIF Program funds will be given in the form of a loan, not a grant.
4. DHCA provides flexible financing to meet public purpose objectives. Loan terms are set by the Director based on the needs of the project. The interest rate charged generally is 3%, however the rate can be established depending on the project's purpose and financing. Loan repayments can amortize monthly, be deferred for a period of time, or be based on a property's available cash flow. Projects proposing to use cross-collateralization/cross-default will not be considered.
5. DHCA staff will assess the funding needs of a project based on the population served, the reasonableness of projections based on type of development, the efficient use of local funds, and leveraging of other resources.

6. An appraisal either ordered by the first mortgage lender or by DHCA will be reviewed by DHCA before a loan approval can be recommended to the DHCA Director. The cost of the appraisal will be borne by the developer. The appraisal must be based on the projected value of the property based on market rents, in order to obtain a value of the property in the marketplace if it did not have any rent restrictions
7. Equity Contribution: While not a requirement, the expectation is that cash equity will be included from the owner/sponsor/parent company (excluding deferred developer fee) as a source of funds. A cash equity contribution of 10% is an expected goal for each project.
8. For projects proposing to use Low Income Housing Tax Credits, preference will be given to projects with at least 50% of the developer's fee deferred and paid from the project's cash flow, provided sufficient cash-flow available.
9. If an application includes tax credits, but the tax credit request was declined by the Maryland Department of Housing and Community Development, the HIF Program application process may be terminated, which termination will be in the Director's sole and absolute discretion
10. Physical Needs Assessment: In the event that other lenders or investors have not required a Physical Needs Assessment, DHCA staff, at its own discretion, may hire a third-party firm, at the expense of the borrower, to provide a Physical Needs Assessment to verify that the planned rehabilitation scope of work is sufficient for the project.
11. The County may require properties receiving County funding to contact appropriate County agencies regarding any vacant units, and give first preference to residents of Montgomery County or people working in Montgomery County.
12. The County may require properties receiving funding to set aside units for very low-income residents. The County may require that developers set aside a minimum of 10% of the units in a property at 30% of the area median income. Favorable consideration will be given to projects setting aside a larger percentage of units for households earning 30% to 50% of the AMI. Small properties must set aside at least one unit at or below 30% of the area median income.
13. The County will require that properties receiving County funding to give to the County the first right to purchase a property if it is sold. The County may include language in its loans that states that if at any time a signed bona fide third-party contract is accepted by the borrower, the County has the right to match the contract at a pre-established price.
14. A Payment and Performance Bond will be required (with DHCA as a named insured).
15. Other requirements may be established as deemed necessary by the Director to protect the interests of, DHCA, and Montgomery County.

**G. Eligible applicants:**

1. Applicants must be experienced in the development of affordable housing. Applicants should demonstrate their experience and have a clear capacity for the undertaking they are proposing. This experience includes the type of project proposed (including the number of units, the scale of construction/rehabilitation and the proposed financing structure of the project). The applicant must provide documentation that demonstrates that the development team has the capacity to carry out the proposed project by providing information on previous projects carried out, years in service, and work on similar projects.
2. Partnerships or joint ventures among experienced developers and community-based organizations are acceptable as a way for applicants to demonstrate the required affordable housing experience.

**H. Eligible activities:** Funds are available for the purposes of the development, preservation, or purchase of affordable housing in Montgomery County.

1. Funds may only be used for capital purposes such as new construction, acquisition and acquisition/rehabilitation. Funding is not provided for pre-development or operating funds.
2. For new construction projects, DHCA will seek an agreement with the senior lender and other financial partners in the disbursement of funds during construction and rehabilitation process and schedule. While a pari-passu disbursement schedule is desired, DHCA will work with the financial partners to achieve a mutually agreeable disbursement schedule. DHCA construction/rehabilitation disbursements will require the approval of the DHCA construction manager/inspector and other lender approved inspections. DHCA will require normal releases of liens and current title bring-downs as part of the construction/rehabilitation payment approval process.

**I. Financial Feasibility:** Projects will be underwritten to determine financial feasibility. The applicant needs to demonstrate that the financing by the County is necessary for the project. Factors will include, but are not limited to:

1. A pro-forma analysis of the property's projected financial performance over the first 20 years of the proposed loan, including rental income (within affordability guidelines), expenses, and deposits to reserves.
2. The project's ability to support any must-pay debt.
3. The appraised value of the project under the General Funding Guidelines, based on the condition of the property and proposed renovations;
4. Debt coverage with a Debt Service Coverage (DSC) of 1.0 and loan to value ratio not to exceed 100%, including all debt.
5. The terms and conditions of any senior debt (if applicable).

6. Leveraging of other resources to the County funds, targeting a 3:1 leverage ratio.
7. The repayment of the County debt.
8. A review of the last three years of independently audited financials for the applicant.

**J. Loan Structure:**

1. HIF Program Funds are non-recourse secured loans.
2. Repayment of principal and interest of County financing will be dependent upon the underwriting process.
3. It is anticipated that the County investment is part of a broader financing plan that may include additional public or private debt or tax credits; ideally, the funds are being used to leverage additional sources of financing.
4. Loans are subject to annual monitoring fees.

**K. Readiness to Proceed:** A project's readiness to proceed will also be a key determinant in awarding funding.

1. The project should be in the process of securing other financing or have a clear timeline for acquiring additional sources of funding necessary to complete the project.
2. Preference will be given to projects that can demonstrate closing within 12 months of receiving approval for funding, or in the case of applicants applying for tax credits, 12 months from the award of tax credits.

**L. Processing, Timelines:** Applications for Housing Initiative Fund funding will be accepted on a rolling basis. We encourage all applicants to discuss their project proposals with DHCA staff for eligibility and feasibility prior to submission of a request.

1. DHCA reserves the right to award HIF Program Funds in a manner that achieves the stated preferences and may request adjustments to a project to maximize Preference Criteria achievement.
2. Applicants are advised that, in the event the DHCA requires no clarifications and/or supplementary information, such applications may be evaluated without further discussion with the applicant. Consequently, applicants should provide complete, thorough applications with the offerors' most favorable terms. Should DHCA inform an applicant that it requires additional clarification and/or supplementary information, applicants should submit such additional material in a timely manner.
3. The County may cancel this NOFA or reject proposals at any time prior to an award.

For further information, please contact Lawrence Cager, Multifamily Housing Manager, at [DHCA.housing@montgomerycountymd.gov](mailto:DHCA.housing@montgomerycountymd.gov)